IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

Crl.MC.No. 3404 of 2007()

ST.639/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, THRISSUR

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PETITIONER: SOLE ACCUSED

REMA, AGED 44, W/O.HARIDAS,
PATTATHAZHATH VEEDU, VIVEKODAYAM SCHOOL LANE,
NAIKANAL, P.O.THRISSUR.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS: STATE

STATE OF KERALA, THROUGH THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 3404 of 2007

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Dated this the 12th day of November, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the N.I. Act. Cognizance was taken by the learned Magistrate. The petitioner appeared before the learned Magistrate through counsel. The case was posted to 3.10.2007. Consequent to the non-appearance of the petitioner, the warrants of arrest issued by the learned Magistrate is chasing the petitioner. It is in these circumstances that the petitioner has come to this Court with this petition under Section 482 Cr.P.C.

2. According to the petitioner she is absolutely innocent and her absence was not willful. The learned counsel for the petitioner submits that the petitioner is willing to appear before the learned Magistrate. But she apprehends that her application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these

circumstances prayed that appropriate directions may be issued to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which she could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when she surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. In the peculiar facts and circumstances of this case, there shall be a direction that the warrant of arrest issued against the petitioner shall not be executed till 19.11.2007. On or before that date the petitioner shall appear before the learned Magistrate and seek regular bail.

(R. BASANT)
Judge

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